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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,784	01/26/2004	Michael P. Connelly	1842.012US1	9760
70648 7590 05/21/2009 SCHWEGMAN, LUNDBERG & WOESSNER/WMS GAMING P.O. BOX 2938 MINNEAPOLIS, MN 55402				
EXAMINER				
KIM, ANDREW				
ART UNIT		PAPER NUMBER		
3714				
NOTIFICATION DATE		DELIVERY MODE		
05/21/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@slwip.com
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Office Action Summary

Application No.

10/764,784

Applicant(s)

CONNELLY, MICHAEL P.

Examiner

ANDREW KIM

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2009.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-18 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date 3/19/2009
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Inventor's Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This office action is in response to the amendment filed on 3/18/09 in which:

- Response to claims rejection have been filed.
- Claim(s) 1-18 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 8, 15-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation within the bounds of the display screen is not recited in the specification. Although the specification mentions that in alternate embodiments the player's attention are directed to mechanical elements, top box displays, however, the absence of the "within the bounds of the display screen" in a group of elements does not necessarily mean the presence of "within the bounds of the display screen" in the absence of the other elements. In other words, there are other elements other than mechanical game elements, top box displays that are also not "within the bounds of the display screen," such as "just outside the display screen".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishibashi (US 5,695,188) in view of Wood et al. (US 5,798,922).

Claims 1, 8, 15, 16, 17, and 18. Ishibashi discloses a computerized gaming system, comprising: a gaming module, comprising a processor and gaming code which is operable when executed on the processor to conduct a wagering game on which monetary value can be wagered; and an audio module (col. 4:43-67), the audio module operable to play audio cues to direct the visual attention of a player of the gaming system, the audio cues comprising a directional, moveable audio representation of the physical location within the bounds of the display screen of a

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game element presented on a video screen (col. 10:20-24) by variation in at least one of pitch, instrument, rhythm, volume, echo, phase, and panning (Abstract).

Ishibashi may not explicitly teach a directional, moveable audio, instead Ishibashi teaches certain sounds are in a certain region of the display. However, in an analogous audio reference, Wood teaches directional, moveable audio such that the audio cues appear to a game player to come from the physical location on the display of the displayed game element and are movable to different physical locations on the display to reflect the physical location of a desired game element on the display to play a game which may involve visual cues which are synchronized with the different audio cues and which aid the player when the visual cues are displayed on a display device (Abstract, 1:55-2:25). One of ordinary skill in the art would have seen the benefit of modifying Ishibashi with directional audio to enable utilization in a highly interactive environment (1:60). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ishibashi with directional audio to enable utilization in a highly interactive environment.

The term appear and reflect is a very broad term, especially combined with audio. As such, the term has been interpreted as "general direction." Therefore, "within the bounds of the display screen" has been interpreted as within or around the display screen.

Claims 2, 9. The computerized gaming system of claim 1, wherein localized sounds

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comprise sounds representing only a portion of the video screen of the gaming device (Abstract). The sounds represent the payline.

Claims 3, 10. Ishibashi substantially discloses the invention as claimed but fails to explicitly teach wherein pitch varies with vertical position of directed visual attention on the video screen. Instead, Ishibashi teaches generating sounds when each of the plurality of symbol columns is moved and stopped. However, it is well known to change the pitch of a sound with respect to its vertical position. For example in reading music, to indicate a note of a high pitch one would look at the notes at the top of the scale. Another example is the sound when a pogo stick hits the ground. Boing. One would obviously associate the high pitched sound for when the pogo stick is higher in the air. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the instant invention to incorporate wherein the pitch varies with vertical position to notify the user where to direct his attention.

Claims 4, 11. Ishibashi discloses wherein the audio cues indicate the payline in a video slot gaming machine (Abstract).

Claims 5, 12. Ishibashi discloses wherein at least one of instrument or phase changes to represent different reels where the gaming system is a multi-reel video slot machine (fig. 7, Abstract).

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Claims 6, 13. Ishibashi discloses wherein the variation in at least one of pitch, instrument, rhythm, volume, echo, phase, delay, and localized sounds is further accompanied by panning to represent horizontal position on the video screen (col. 3:40-67). Panning has been interpreted as vertical panning.

Claims 7, 14. Ishibashi discloses wherein multiple audio cues are presented at the same time (Abstract). When the reels are rotating at the same time, the audio cues will be sounded at the same time.

Response to Arguments

Applicant's arguments filed 3/18/09 have been considered but are unpersuasive.

Regarding the independent claims and the amended limitation "within the bounds of the display screen," although the specification mentions that in alternate embodiments the player's attention are directed to mechanical elements, top box displays, however, the absence of the "within the bounds of the display screen" in a group of elements does not necessarily mean the presence of "within the bounds of the display screen" in the absence of the other elements. In other words, there are other elements other than mechanical game elements, top box displays that are also not "within the bounds of the display screen," such as "just outside the display screen".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW KIM whose telephone number is (571)272-1691. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/
Supervisory Patent Examiner, Art
Unit 3714

5/19/2009 /A. K./
Examiner, Art Unit 3714